

In the United States  
**Circuit Court of Appeals**  
For the Ninth Circuit

CHESTER W. CRUM, *Appellant*

v.

UNITED STATES OF AMERICA, *Appellee*

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**BRIEF OF THE UNITED STATES**

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Upon Appeal from the United States District Court  
for the District of Oregon.

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CARL C. DONAUGH,  
United States Attorney for the District of Oregon,

MASON DILLARD,  
Assistant United States Attorney,  
506 United States Court House,  
Portland, Oregon,  
*For Appellee.*

FILED

AUG 6 1945

CHESTER W. CRUM,  
In Propria Persona,  
Alcatraz, California,  
*For Appellant.*

PAUL P. O'BRIEN,  
CLERK



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**STATEMENT OF FACTS**

The appellant, Chester W. Crum, is serving a 25-year sentence in a United States penitentiary as a result of conviction on a plea of guilty in the United States District Court for the District of Oregon in Criminal Case No. C-15153. The indictment is the identical indictment brought before this Honorable Court for consideration in the case of Lloyd H. Bark-

doll, Appellant v. United States of America, Appellee, No. 10858, in which case an opinion was rendered and filed the 15th day of February, 1945. The indictment charged appellant with the violation of Section 88, Title 18, U.S.C.A., in Count One. Counts Two and Three charged violations of Section 588b (a) and (b), Title 12, U.S.C.A., and Count Four was the violation of Section 588c, Title 12, U.S.C.A.

On July 28, 1937, the appellant appeared in Court in person and by his attorney, Hugh L. Biggs, thereupon withdrew his plea of not guilty and entered a plea of guilty as charged in the indictment.

On July 29, 1937, the appellant appeared in Court with his attorney and was sentenced by the Court as follows: On Count One, imprisonment for a period of two years; Count Two, imprisonment for a period of twenty years; Count Three, imprisonment for a period of 25 years and a fine of \$1,000; Count Four, imprisonment for a term of 25 years; the said terms of imprisonment all to run concurrently.

This Court has held that Section 588b defines one crime only and that only one sentence can be imposed. See *Lloyd H. Barkdoll v. United States of America*, No. 10858, February 15, 1945.



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## QUESTION INVOLVED

The only question which appears to be involved is whether or not the appellant is now entitled to any relief by way of this appeal, in view of the fact that he is now serving a valid sentence for the offense charged in Count Four of the indictment.

## ARGUMENT

It is now clear that appellant should have been sentenced for only one term of imprisonment under Counts Two and Three of the indictment. Count Four of the indictment charged that in committing the offense of bank robbery, the defendant forced a person to accompany him without the consent of that person. The sufficiency of the indictment on this count and the fact that it charges a separate and distinct crime is established by the decision of this Court in the case of *Lloyd H. Barkdoll, Appellant v. United States of America, Appellee*, wherein the Court states:

“We hold this indictment sufficient as the crime is described as ‘that in committing said offense the said defendants did force Oscar Hoverson to accompany them, without his consent.’”

We respectfully submit that that decision is controlling in this case as it pertains to the same indictment and the same offense, Barkdoll and the Appellant Crum having been co-defendants in that prosecution.

**CONCLUSION**

In conclusion, we submit that the appellant's appeal should be dismissed without any relief whatsoever.

Respectfully submitted,

CARL C. DONAUGH,

United States Attorney for the  
District of Oregon.

MASON DILLARD,

Assist. United States Attorney.



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